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Defendant.	: X	
	:	
AZIZJON RAKHMATOV,	:	
	:	15-CR-95-6 (WFK)
V.	:	DECISION & ORDER
	:	
UNITED STATES OF AMERICA,	:	
	X	
EASTERN DISTRICT OF NEW YORK		
TRUTEIN CITATEC INCIDICITATE CANDOT		

WILLIAM F. KUNTZ, II, United States District Judge:

On August 15, 2019, Azizjon Rakhmatov ("Defendant") pled guilty to Count One of the Third Superseding Indictment, charging him with Conspiracy to Provide Material Support to a Foreign Terrorist Organization, in violation of 18 U.S.C. § 2339B. On January 14, 2021, this Court sentenced Defendant to 150 months of incarceration and a lifetime term of supervised release. Judgment, ECF No. 486.

On November 17, 2021, the U.S. Court of Appeals for the Second Circuit affirmed Defendant's conviction but remanded the case to this Court for further proceedings to address the lifetime term of supervised release and the remaining special conditions which survived Defendant's appeal. *See United States v. Rakhmatov*, No. 21-151, 2022 WL 16984536, at *4 (2d Cir. Nov. 17, 2022).

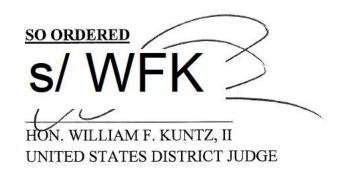
On May 26, 2023, Defendant, through counsel, moved pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. Def. Sentencing Mem. at 17, ECF No. 571.

Defendant's Motion for Relief arises from an allegedly exculpating communication which occurred on January 10, 2015 between Defendant and co-Defendant Akmal Zakirov. *Id.* In opposition, the Government claims Defendant's argument is meritless and that the January 10, 2015 communication provides no support for Defendant's claim. Gov't Opp. at 9, ECF No. 575.

On July 26, 2023, the Court held a re-sentencing hearing for Defendant, during which defense counsel argued the Court should order a new trial and sentencing, which the Court denied from the bench. *See* July 26, 2023 Re-Sentencing Hearing Transcript at 31, ECF No. 593. On August 15, 2023, defense counsel submitted a letter requesting the Court enter a written order memorializing its oral denial of Defendant's Motion during the July 26, 2023 re-sentencing hearing. ECF No. 594.

The Second Circuit has "long enforced waivers of direct appeal rights in plea agreements." *Garcia-Santos v. United States*, 273 F.3d 506, 509 (2d Cir. 2001). Indeed, with respect to the case at hand, the Second Circuit has specifically emphasized: "[a]s part of his plea agreement, Rakhmatov agreed not to 'file an appeal or otherwise challenge, by petition pursuant to 28 U.S.C. § 2255 or any other provision, the conviction or sentence' provided he was sentenced to 150 months' imprisonment or less. The district court sentenced him to 150 months in prison. Although he disagrees with this sentence, he cannot use Rule 35(a) to overcome his waiver. His appeal from the decision on the motion must be dismissed." *United States v. Rakhmatov*, 53 F.4th 258, 261 (2d Cir. 2022), *cert. denied*, 143 S. Ct. 2476 (2023). The Court re-sentenced Defendant to 150 months of incarceration, in addition to two (2) years of supervised release, and payment of a \$100.00 special assessment. Amended Judgment, ECF No. 584. Accordingly, the Court hereby DENIES Defendant's Motion.

Furthermore, on August 16, 2023, counsel for Defendant submitted an additional letter requesting the Court "include the certification of the appeal in the order." ECF No. 595. The Court DENIES Defendant's request and refers the Second Circuit on appeal to the transcript of the July 26, 2023 re-sentencing hearing, which is attached to this Decision & Order as Exhibit A.



Dated: Brooklyn, New York August 16, 2023